

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

JAMES E. HILL,	)	
	)	
Plaintiff	)	
v.	)	
	)	Case No.: 3:10-cv-324
CF MEDICAL, LLC and	)	Phillips/Guyton
CAPIO PARTNERS,	)	
	)	
Defendants.	)	

**ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES**

Defendant CF Medical, LLC (“CF MEDICAL”) submits this, its Answer and Affirmative Defenses to Plaintiff’s Complaint, and states as follows:

**INTRODUCTION**

1. In response to the allegations in ¶ 1 of the Complaint, CF MEDICAL admits that plaintiff purports to seek redress for alleged violations of the Fair Debt Collections Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”), but denies violating the FDCPA and denies any liability or wrongdoing under the law.

**JURISDICTION AND VENUE**

2. CF MEDICAL admits the allegations in ¶ 2 of the Complaint for jurisdiction purposes only.

3. CF MEDICAL admits the allegations in ¶ 3 for venue purposes only.

## **PARTIES**

4. CF MEDICAL denies the allegations in ¶ 4 of the Complaint for lack of knowledge or information sufficient to justify a belief as to the truth thereof.

5. CF MEDICAL denies the allegations in ¶ 5 of the Complaint for lack of knowledge or information sufficient to justify a belief as to the truth thereof.

6. CF MEDICAL admits that it is a limited liability company organized in Nevada and maintains The Corporation Trust Company of Nevada as its registered agent for service of process. Except as specifically admitted, CF MEDICAL denies the allegations of ¶ 6.

## **FACTUAL ALLEGATIONS**

7. CF MEDICAL denies the allegations in ¶ 7 of the Complaint for lack of knowledge or information sufficient to justify a belief as to the truth thereof.

8. CF MEDICAL admits that an account in the name of James Hill was placed with Capio Partners for the purpose of collections prior to January 24, 2010. Except as specifically admitted, the allegations of ¶ 8 are denied.

9. CF MEDICAL denies the allegations in ¶ 9 of the Complaint for lack of knowledge or information sufficient to justify a belief as to the truth thereof.

10. Paragraph 10 of the Complaint directs no allegations at CF MEDICAL and contains only a conclusion of law to which no answer is required. To the extent an answer is required, CF MEDICAL denies the allegations of ¶ 10 as a conclusion of law.

11. The January 24, 2010 collection letter speaks for itself and is the best evidence of its content. To the extent the allegations in ¶ 11 state otherwise, they are denied.

12. The January 24, 2010 collection letter speaks for itself and is the best evidence of its content. To the extent the allegations in ¶ 12 state otherwise, they are denied.

13. Paragraph 13 of the Complaint directs no allegations at CF MEDICAL and contains only a conclusion of law to which no answer is required. To the extent the allegations in ¶13 require a response, they are denied.

14. Paragraph 14 of the Complaint directs no allegations at CF MEDICAL and contains only a conclusion of law to which no answer is required. To the extent the allegations in ¶14 require a response, they are denied.

15. CF MEDICAL denies the allegations in ¶ 15 of the Complaint for lack of knowledge or information sufficient to justify a belief as to the truth thereof.

16. CF MEDICAL denies the allegations in ¶ 16 of the Complaint.

#### **SUMMARY**

17. CF MEDICAL denies the allegations in ¶ 17 of the Complaint.

### **RESPONDEAT SUPERIOR LIABILITY**

- 18. CF MEDICAL denies the allegations in ¶ 18 of the Complaint.
- 19. CF MEDICAL denies the allegations in ¶ 19 of the Complaint.
- 20. CF MEDICAL denies the allegations in ¶ 20 of the Complaint.
- 21. CF MEDICAL denies the allegations in ¶ 21 of the Complaint.

### **TRIAL BY JURY**

22. Paragraph 22 of the Complaint directs no allegations at CF MEDICAL and contains only a conclusion of law to which no answer is required.

### **CAUSES OF ACTION**

#### **COUNT I**

#### **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

23. CF MEDICAL repeats its answers to the allegations set forth in the preceding paragraphs 1-22 as if same were set forth herein at length.

- 24. CF MEDICAL denies the allegations in ¶ 24 of the Complaint.
- 25. CF MEDICAL denies the allegations in ¶ 25 of the Complaint.

AND NOW, in further Answer to the Complaint, CF MEDICAL avers as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

One or more of the Counts contained in the Complaint fail to state a claim against CF MEDICAL upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Pursuant to 15 U.S.C. § 1692k(c), to the extent that a violation(s) is established and in the event CF MEDICAL is found to be a debt collector as defined in FDCPA, which is specifically denied, any such violation(s) was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

WHEREFORE, Defendant CF MEDICAL prays that this action be dismissed with prejudice and at Plaintiff's costs, and further that CF MEDICAL be awarded its costs and attorneys fees and any other appropriate relief.

Dated: August 30, 2010.

s/ R. Dale Bay  
R. Dale Bay, Esq. (BPR No.10896)  
Lewis, King, Krieg & Waldrop, P.C.  
424 Church Street, Suite 2500  
P. O. Box 198615  
Nashville, TN 37219  
Telephone: (615) 259-1366  
Facsimile: (615) 259-1389  
E-mail: [dbay@lewisking.com](mailto:dbay@lewisking.com)

Attorneys for Defendant, CF MEDICAL, LLC.

### **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on August 30, 2010 I electronically filed a true and exact copy of the above and foregoing ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

**Alan C. Lee, Attorney**  
**PO Box 1357**  
**Morristown, TN 37816-1357**  
[info@alanlee.com](mailto:info@alanlee.com)

s/ R. Dale Bay  
R. Dale Bay, Esquire  
E-mail: dbay@lewisking.com